



**Connecticut Fund  
for the Environment**  
**Save the Sound®**

September 26, 2016

**VIA CERTIFIED MAIL**

Gina McCarthy, Administrator  
U.S. Environmental Protection Agency  
Aerial Rios Building, Mail Code 1101A  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 204060

Curt Spalding  
Regional Administrator  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Rob Klee, Commissioner  
Connecticut Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, CT 06106

Honorable Mark D. Boughton, Mayor  
155 Deer Hill Avenue  
Danbury, CT 06810

Antonio Iadarola, Director  
Department of Public Works  
155 Deer Hill Avenue  
Danbury, CT 06810

**RECEIVED**

**SEP 28 2016**

OFFICE OF THE REGIONAL ADMINISTRATOR

**Re: Sixty-day notice of intent to file suit for violations of the Federal Clean Water Act  
against the City of Danbury, CT, NPDES Permit # CT0100145**

To Whom It May Concern,

On behalf of Connecticut Fund for the Environment, Inc. and its bi-state program Save the Sound (CFE/Save the Sound), I write to notify you, pursuant to Section 505 of the Clean Water Act, 33 U.S.C. § 1365, of our intent to bring suit against the City of Danbury (City) for ongoing and continuous violations of its National Pollutant Discharge Elimination System (NPDES) Permit, including, but not limited to unlawful discharges of pollutants into the waters

of the United States, and violations of permit discharge parameters, which are in turn violations of the Clean Water Act. CFE/Save the Sound and its members are very concerned about continuing serious violations of the Clean Water Act by the City that have caused and continue to cause pollutants to enter Connecticut waters and navigable waters of the United States and which ultimately impact the health and environment of the Long Island Sound.

During the 60 day notice period, CFE/Save the Sound is willing to discuss effective remedies for the violations described in this letter, and actions that might be taken to ensure future compliance with the Clean Water Act. The 60 day notice period would be an appropriate time for the City to inform CFE/the Sound of any steps it has already taken to remedy the violations described in this notice letter. If you wish to pursue such discussions prior to any potential litigation, please initiate those discussions immediately.

### **CFE and Save the Sound**

Connecticut Fund for the Environment, Inc. ("CFE") was founded in 1978 to protect and improve the land, air, and water of Connecticut using advocacy and scientific expertise to achieve results that benefit our environment for current and future generations. CFE is a 501(c)(3) not-for-profit corporation, incorporated under the laws of the State of Connecticut, with its principal place of business at 900 Chapel Street, Suite 2202, New Haven, CT 06510. CFE represents more than 5,000 members in Connecticut and New York. CFE has represented the interests of its membership in legal proceedings before trial and appellate courts and federal and state administrative agencies in various proceedings in which CFE sought to protect the environment and natural resources for its members and the citizens of Connecticut. Save the Sound was founded in 1972 as the Long Island Sound Taskforce to preserve and protect the Sound. In 2004, CFE and Save the Sound merged with Save the Sound incorporated as a bi-state program within CFE. The Save the Sound program works to protect and preserve the environmental health and natural resources of the Long Island Sound.

### **Legal Background**

Section 505 of the Clean Water Act allows citizens to bring suit in federal court against any person alleged to be in violation of the Clean Water Act or NPDES permits. Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that 60 days prior to the initiation of a citizen suit under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), citizens must give notice of their intention to sue. Notice must be given to the Administrator of the United States Environmental Protection Agency (EPA), the Regional Administrator of the EPA, the state in which the violations occurred, and to the alleged violator. By this letter, pursuant to 33 U.S.C. §§ 1365(a) and (b), CFE/Save the Sound hereby puts the City and/or the operators of its waste water collection and treatment system on notice that unless the City takes all steps necessary to remedy ongoing violations of its permit and the Clean Water Act, CFE/Save the Sound intends to file suit in the United States District Court following the expiration of the required 60 day notice

period, seeking injunctive relief and civil penalties in the amount of \$37,500 per violation discussed below and for any additional, similar violations that CFE/Save the Sound may discover subsequently. If the City has any information suggesting that one or more of the violations outlined in this notice letter did not occur or is stated incorrectly, please immediately provide information to CFE/Save the Sound's counsel, specifying the violation in question.

### **Violations**

Pursuant to Municipal NPDES Permit No. CT0100145 issued by the Connecticut Commissioner of Energy and Environmental Protection to the City, the bypass of the treatment plant or a component of the sewage collection system is prohibited. Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source to waters of the United States except in compliance with, among other conditions, a NPDES permit issued pursuant to § 402 of the Clean Water Act, 33 U.S.C. § 1342. Each violation of the permit and each discharge that is not authorized by the permit is a violation of the Clean Water Act. The City's NPDES permit authorizes the discharge of advanced treated municipal wastewaters only from the outfall identified as Discharge Serial Number (DSN) 001-1. A review of By-Pass Reports filed by the City with the Department of Energy and Environmental Protection reveals that there have been ongoing bypasses and illegal or unpermitted discharges from the period January, 2011 to February, 2016. Such discharges include, but are not limited to, those listed in Appendix A attached hereto and incorporated herein and other similar instances. The City has failed and continues to fail to comply with its NPDES permit and the Clean Water Act.

The activity alleged to constitute the violations of the Clean Water Act, the location of the alleged violations, the dates of such violations, and the receiving waters of the unpermitted discharges are described in detail in Attachment A to this letter, which is incorporated herein and made a part of this notice. The alleged violations are based on a review of By-Pass Reports on file at the Connecticut Department of Energy and Environmental Protection as of February, 2016. These violations are ongoing and CFE/Save the Sound will include additional violations as information becomes available.

Municipal NPDES Permit No. CT0100145 also sets parameters for the discharge of certain chemicals, metals, and bacteria in the final effluent discharged from the outfall identified as Discharge Serial Number (DSN) 001-1. The permit parameters for total Lead are an Average Monthly Limit of 0.070kg/d and Maximum Daily Limit of 0.117kg/d. The City has submitted Discharge Monitoring Reports to the Department of Energy and Environmental Protection reporting the exceedance of the permit parameter for the Maximum Daily Limit for total Lead in September, 2015 and in January and February, 2016; and for the exceedance of the permit parameter for the Average Monthly Limit for total Lead in April, 2015. The permit parameters for total Copper are the Average Monthly Limit of 0.019 mg/l and the Maximum Daily Limit of 0.029 mg/l. The City has submitted Discharge Monitoring Reports to the Department of Energy and Environmental Protection reporting the exceedance of the permit parameter for the

Maximum Daily Limit for total Copper in June, 2015. The permit parameters for total Zinc are an Average Monthly Limit of 0.053 mg/l and Maximum Daily Limit of 0.080mg/l. The City has submitted Discharge Monitoring Reports to the Department of Energy and Environmental Protection reporting the exceedance of the permit parameter for the Average Monthly Limit and the Maximum Daily Limit for total Zinc in June, 2015. The permit parameters for fecal Coliform bacteria during the period May 1<sup>st</sup> through September 30<sup>th</sup> shall not exceed 400 per 100 milliliters. The City has submitted Discharge Monitoring Reports to the Department of Energy and Environmental Protection reporting the exceedance of the permit parameter for fecal Coliform in July, 2015. These violations are ongoing and CFE and Save the Sound will include additional violations as information becomes available.

**Relief that CFE and Save the Sound will seek and Penalties for Violations of the Clean Water Act**

CFE/Save the Sound will seek injunctive relief from the court to prevent further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief permitted by law. In addition, pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date upon which CFE/Save the Sound serves this notice of intent to file suit. These provisions of law authorize civil penalties of up to \$37,500 per day for violations occurring after January 12, 2009.

Finally, Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), permits prevailing parties or substantially prevailing parties to recover costs, including attorneys' fees and experts' fees associated with an enforcement action. CFE/Save the Sound intend to seek recovery of such costs and expenses.

**Conclusion**

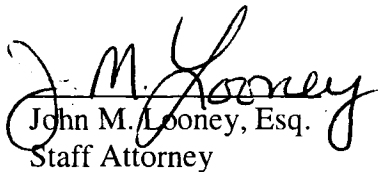
Upon the expiration of the 60 day notice period, CFE/Save the Sound intends to file a citizen suit under Section 505(a) of the Clean Water Act for the violations described herein, and for any similar violations that occur after the date of this notice letter.

Counsel representing CFE and Save the Sound in this matter are listed below.

John M. Looney, Esq.  
Staff Attorney  
Connecticut Fund for the Environment/Save the Sound  
900 Chapel Street, Suite 2202  
New Haven, CT 06510  
Telephone: (203) 787-0646 Ext. 117  
E-mail: [jlooney@ctenvironment.org](mailto:jlooney@ctenvironment.org); Fax: (203) 787-0246

Roger Reynolds, Esq.  
Legal Director Connecticut Fund for the Environment/Save the Sound  
900 Chapel Street, Suite 2202  
New Haven, CT 06510  
Telephone: (203) 787-0646 Ext. 105  
E-mail: [rreynolds@ctenvironment.org](mailto:rreynolds@ctenvironment.org); Fax: (203) 787-0246

Very truly yours



John M. Looney, Esq.  
Staff Attorney

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New Haven, CT 06510  
Telephone: (203) 787-0646 Ext. 117  
E-mail: [jlooney@ctenvironment.org](mailto:jlooney@ctenvironment.org)  
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900 Chapel Street, Suite 2202  
New Haven, CT 06510  
Telephone: (203) 787-0646 Ext. 105  
E-mail: [rreynolds@ctenvironment.org](mailto:rreynolds@ctenvironment.org)  
Fax: (203) 787-0246

## **SERVICE LIST**

### **VIA CERTIFIED U.S. MAIL**

Gina McCarthy, Administrator  
U.S. Environmental Protection Agency  
Aerial Rios Building, Mail Code 1101A  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 204060

Curt Spalding  
Regional Administrator  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

Rob Klee, Commissioner  
Connecticut Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, CT 06106

# **ATTACHMENT A**

## **DANBURY**

- 1. 1/3/11- Volume of By-Pass: 500 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole on Liberty Street; Receiving Water: Still River.**
- 2. 1/29/11- Volume of By-Pass: 100 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole on Federal Road @ Broolfield Rd.; Receiving Water: Still River.**
- 3. 3/5/11- Volume of By-Pass: 100 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole on Old Swelter Rock Rd.; Receiving Water: Still River.**
- 4. 3/7/11- Volume of By-Pass: 15,000 gallons of Raw Sewage; Weather Condition: Rain; Cause: Rain and I/I; Location: Lake Ave. and Morris St.; Receiving Water: Still River.**
- 5. 3/7/11- Volume of By-Pass: 6.715 million gallons of Disinfected, Partially Treated Sewage; Weather condition; Rain; Cause: High Flow/Rain; Location: Treatment Plant Equalization Tank into Conduit Tank; Receiving Water: Limekiln Brook.**
- 6. 3/7/11- Volume of By-Pass: 15,000 gallons of Raw Sewage; Weather Condition: Rain; Cause: Rain and I/I; Location: Rockwell Road @ I 84 Overpass; Receiving Water: Still River.**
- 7. 3/7/11- Volume of By-Pass: 25,000 to 30,000 gallons of Raw Sewage; Weather Condition: Rain; Cause: Rain and I/I; Location: Manhole at White Street & Ives Street; Receiving Water: Still River.**
- 8. 3/15/11- Volume of By-Pass: <50 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: 6 Top Stone Dr.; Receiving Water: Still River.**
- 9. 8/20/11- Volume of By-Pass: 100 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Germanstewal Road at Hospital Ave.; Receiving Water: Beaver Brook.**



- 10. 8/28/11- Volume of By-Pass: 10,000-20,000 gallons of Raw Sewage; Weather Condition: Hurricane Irene; Cause: Wet Weather / Limited Capacity; Location: 153 Lake Ave.; Receiving Water; Still River. (Hurricane Irene/ I&I)**
- 11. 8/28/11- Volume of By-Pass: 10,000-20,000 gallons of Raw Sewage; Weather Condition: Hurricane Irene; Cause: Wet Weather / Limited Capacity; Location: White Street at Ives Street; Receiving Water: Still River. (Hurricane Irene/ I&I)**
- 12. 8/28/11- Volume of By-Pass: 4,000 – 5,000 gallons of Raw Sewage; Weather Condition: Hurricane Irene; Cause: Wet Weather / Limited Capacity; Location: Corner of Marshole(?) on Staples (11 Staples St.); Receiving Water: Still River. (Hurricane Irene/ I&I)**
- 13. 8/28/11 - Volume of By-Pass: approx.. 3.28 million gallons of Disinfected Partially Treated Sewage; Weather Condition: Wet (Post Hurricane Irene); Cause: Wet Weather / Limited Capacity; Location: Treatment Plant Equalization Tank into Contact Tank; Receiving Water; Limekiln Brook**
- 14. 8/28/11- Volume of By-Pass: approx.. 281,600 gallons of Partially Treated Sewage; Weather Condition: Wet (Post Hurricane Irene); Cause: Electrical Equipment Failure, Wet Weather, Limited Capacity; Location: Treatment Plant Intermediate Clarifiers; Receiving Water: Limekiln Brook**
- 15. 9/2/11- Volume of By-Pass 50 gallons of Raw Sewage: Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole on Old Shelter Rock Road @ crest of hill: Receiving Water: Still River.**
- 16. 9/8/11- Volume of By-Pass: 36,000 gallons of Raw Sewage; Weather Condition: Wet; Cause: Blockage and I&I; Location: White Street & Ives Street; Receiving Water: Still River.**
- 17. 9/9/11- Volume of By-Pass: 1.39 million gallons of Disinfected, Partially Treated Sewage; Weather Condition: Wet (post storm event); Cause: Wet Weather/ Limited Capacity; Location: Treatment Plant (Equalization tank into Chlorine Contact Tank); Receiving Water: Limekiln Brook.**
- 18. 9/8/11- Volume of By-Pass: 200 gallons of Raw Sewage; Weather Condition: Wet (Heavy Rain); Cause: Blockage: Location: Old Shelter Rock Road @ crest of hill); Receiving Water: Still River.**

19. 10/25/11- Volume of By-Pass: 50 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Old Shelter Rock Road; Receiving Water: Still River.
20. 11/3/11- Volume of By-Pass: 200 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Old Shelter Rock Rd.; Receiving Water: Still River.
21. 1/9/12- Volume of By-Pass: 25 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: 92 Taylor Street; Receiving Water: Still River.
22. 2/14/12- Volume of By-Pass: approx. 370,000 gallons of Raw Sewage; Weather Condition: Dry; Cause: Mechanical and Electrical Equipment Failure; Location: Beaver Brook Pump Station; Receiving Water: Limekiln Brook.
23. 3/5/12- Volume of By-Pass: 370,400 gallons of Raw Sewage; Weather Condition: Dry; Cause: Blockage; Location: Manhole at Rockwell Point Easement; Receiving Water: Beaver Brook.
24. 3/30/12- Volume of By-Pass: 800 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: 36 Jefferson Ave.; Receiving Water: Parks Pond Brook.
25. 4/9/12- Volume of By-Pass: 100 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: manhole at 2 Breezy Hill Rd.; Receiving Water: Padanaram Brook.
26. 4/12/12: Volume of By-Pass: 10 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: North Ridge(\*\*\*) on North Street; Receiving Water: Still River/Padanaram Brook.
27. 4/23/12- Volume of By-Pass: 300 gallons of Raw sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 10 Newtown Road; Receiving Water: Still River.
28. 7/22/12- Volume of By-Pass: 25 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: 2 Topstone Drive; Receiving Water: Still River.

29. 2/4/13- Volume of By-Pass: 500 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location; Manhole at 24 Haystewal Rd.; Receiving Water: Padanaram Brook.
30. 2/16/13- Volume of By-Pass: 280 gallons of Raw Sweage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole on Old Shelter Rock Road; Receiving Water: Still River.
31. 9/6/13- Volume of By-Pass: 200 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: NOT REPORTED; Location: Lateral at intersection of Osborn and 5<sup>th</sup> Ave.; Receiving Water: Still River.
32. 9/26/13- Volume of By-Pass: 180 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Broken Pipe; Location: Rockwell Road; Receiving Water: Still River.
33. 9/29/13- Volume of By-Pass: 500 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 12 Old Shelter Rock Road; Receiving Water: Still River.
34. 10/15/13- Volume of By-Pass: 55 gallons of Raw Sewage; Weather Condition; NOT REPORTED; Cause: Blockage; Location: Manhole at 6 Topside Drive; Receiving Water: Still River.
35. 10/16/13- Volume of By-Pass: 200 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Bolckage; Location: Old Shelter Rock Rd.; Receiving Water: Still River.
36. 11/9/13- Volume of By-Pass: 100 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 6 Topstair (?); Receiving Water: Still River.
37. 11/11/13- Volume of By-Pass: 250 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Lateral at 32 Center Street; Receiving Water: Still River.
38. 11/29/13- Volume of By-Pass: 150 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole on Augusta Drive; Receiving Water: Still River.

39. 12/24/13- Volume of By-Pass: 150 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at intersection of South(?) St. and Wixted (?); Receiving Water: Still River.
40. 1/1/14- Volume of By-Pass: 1,000 gallons of Raw Sewage; Cause: Blockage; Location: Manhole at 1 Topstone Dr.; Receiving Water: Still River.
41. 2/27/14- Volume of By-Pass: 300 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at intersection of Stratten Place and Madison; Receiving Water: Padanaram Brook.
42. 3/2/14- Volume: 200 to 300 gallons of (Raw Sewage?); Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 6 RuthSam (?) Dr.; Receiving Water: Memorial Drive Brook.
43. 3/4/14- Volume of By-Pass: 600 to 700 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 29 Old Shelter Rock Rd.; Receiving Water: Still River.
44. 3/13/14- Volume of By-Pass: 200 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 1t Pearl St.; Receiving Water: Parks Pond Brook.
45. 3/23/14- Volume of By-Pass: 600 gallons of Raw Sewage; Weather Condition: NOT REPORTED. Cause: Blockage; Location: Manhole at 19 ? Ave; Receiving Water: Padanaram Brook.
46. 4/11/14- Volume of By-Pass: 300 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Main at 53 Newtown Rd; Receiving Water: Limekiln Brook.
47. 9/22/14- Volume of By-Pass: 200 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 4 Topstair Dr.; Receiving Water: Still River.
48. 10/2/14- Volume of By-Pass: 1,000 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at Montgomery & West Street; Receiving Water: Still River.

49. 10/3/14- Volume of By-Pass: 1,000 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 46 Juniper Ridge Rd.; Receiving Water: Still River/ Padanaram Brook.
50. 10/30/14- Volume of By-Pass: 200 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 34 Pahquioque Ave.; Receiving Water: Still River.
51. 11/3/14- Volume of By-Pass: 4,000 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 64 Sleepy Hollow Dr.; Receiving Water: Still River.
52. 12/2/14- Volume of By-Pass: 100 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: 64 Sleepy Hollow Dr.; Receiving Water: Still River.
53. 12/4/14- Volume of By-Pass: 700 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 29 Old Shelter Rock Rd.; Receiving Water: Still River.
54. 12/7/14- Volume of By-Pass: 70,833 gallons of Partially Treated Sewage; Weather Condition: NOT REPORTED; Cause: Electrical Equipment Failure; Location: Treatment Plant (Intermediate Clarifiers); Receiving Water: Limekiln Brook.
55. 12/9/14- Volume of By-Pass: 2,000 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at Intersections of Lake Ave. & Westville Ave.; Receiving Water: Still River.
56. 12/9/14- Volume of By-Pass: 800 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 8 Rocky Glen Rd.; Receiving Water: Still River.
57. 1/11/15- Volume of By-Pass: 500 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at High Ridge Rd. 7 Swppo Rd.; Receiving Water: Still River.
58. 1/14/15- Volume of By-Pass: 1,500 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 46 Jasper Ridge Rd.; Receiving Water: Padanaram Brook.

- 59. 1/17/15- Volume of By-Pass: 3,000 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at Shelter Rock & Shelter Rock Ln.; Receiving Water: Still River.**
- 60. 3/3/25- Volume of By-Pass: 500 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at 34 Fairfield Ridge Road; Receiving Water: Still River.**
- 61. 3/11/15- Volume of By-Pass: < 200 gallons of Partially Treated Sewage; Weather Condition: "clear"; Cause: Electrical Equipment Failure; Location: Treatment Plant (Intermediate Clarifier # 2; Receiving Water: Tributary to Limekiln Brook.**
- 62. 3/16/15- Volume of By-Pass: 200 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at Augusta Drive at Old Newtown Road; Receiving Water: Padanaram Brook.**
- 63. 3/25/15- Volume of By-Pass: 1,400 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole at Oakland Ave. Extension; Receiving Water: Padanaram Brook.**
- 64. 4/3/15- Volume of By-Pass: 800 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Manhole on Taylor St. @ Triangle St.; Receiving Water: Still River.**
- 65. 6/12/15- Volume of By-Pass: 165 gallons of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Broken Disc/-pipe/Pump Failure; Location: Pump Station at 3 Memorial Drive; Receiving Water: Still River.**
- 66. 2/19/16- Volume of By-Pass: 5 gallons per hour (?) of Raw Sewage; Weather Condition: NOT REPORTED; Cause: Blockage; Location: Lateral at 79 Newtown Road; Receiving Water: Still River.**